

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Mortgage Broker License of:

No. 09F-BD074-BNK

3 **RICKY RAY SOWERS DBA AMERICAN**  
4 **EQUITY FINANCIAL**  
1441 E. Thomas Road  
Phoenix, AZ 85014

**ORDER OF SUMMARY SUSPENSION  
AND NOTICE OF HEARING TO REVOKE**

MAY 20 2009

O.A.H.

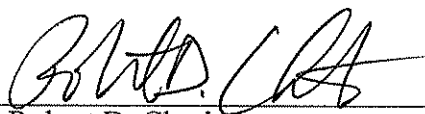
5 Respondent.

6  
7 The Arizona Department of Financial Institutions (the "Department") hereby finds that Ricky  
8 Ray Sowers DBA Equity Financial, ("Respondent") has violated the provisions of the Arizona  
9 Revised Statutes ("A.R.S."), Title 6 as set forth below and finds that the public health, safety and  
10 welfare require emergency action pursuant to A.R.S. §§ 6-905 and 41-1092.11(B).

11 **THEREFORE, IT IS ORDERED** to summarily suspend the Arizona mortgage broker  
12 license held by Respondent, effective immediately, pending the proceedings for revocation or other  
13 action commenced this date. **This suspension is effective immediately.**

14 EFFECTIVE this 20<sup>th</sup> day of May, 2009.

15 Felecia A. Rotellini  
16 Superintendent of Financial Institutions

17 By   
18 Robert D. Charlton  
19 Assistant Superintendent of Financial Institutions

20 **NOTICE OF HEARING AND COMPLAINT**

21 PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-138,  
22 and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative  
23 Hearings, an independent agency, and is scheduled for June 30, 2009 at 9:00 a.m., at the Office of  
24 Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the  
25 "Hearing").  
26

1 The purpose of the Hearing is: (1) to determine whether grounds exist to suspend or revoke  
2 Respondent's mortgage broker license; (2) to order any other remedy necessary or proper for the  
3 enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S.  
4 §§ 6-123 and 6-131; and (3) to impose a civil money penalty pursuant to A.R.S. § 6-132.

5 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of  
6 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied  
7 or expressed, to the Director of the Office of Administrative Hearings or the director's designee to  
8 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the  
9 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office  
10 of Administrative Hearings has designated Kay Abramsom, at the address and phone number listed  
11 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative  
12 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the  
13 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final  
14 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law  
15 Judge is specifically prohibited from entering.

16 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**  
17 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue  
18 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of  
19 Administrative Hearings.

20 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by  
21 counsel, or to proceed without counsel when submitting evidence, to have a reasonable opportunity  
22 to inspect all documentary evidence, to cross-examine witnesses, to present evidence and witnesses  
23 in support of his/her interests, and to have subpoenas issued by the Administrative Law Judge to  
24 compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-1092.07(B),  
25 any person may appear on his or her own behalf or by counsel.

26 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be

1 made by a court reporter or by electronic means. Any party that requests a transcript of the  
2 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

3 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant  
4 Attorney General Erin Gallagher, (602) 542-8935, 1275 West Washington, Phoenix, Arizona 85007.

5 **NOTICE OF APPLICABLE RULES**

6 The hearing will be conducted pursuant to A.A.C. R20-4-1201 through R20-4-1220 and the  
7 rules governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through  
8 R2-19-122. A copy of these rules is enclosed.

9 Pursuant to A.A.C. R20-4-1209, Respondent shall file a written answer **within twenty (20)**  
10 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondent's  
11 position or defense and shall specifically admit or deny each of the assertions contained in this  
12 Notice of Hearing. If the answering Respondent is without or are unable to reasonably obtain  
13 knowledge or information sufficient to form a belief as to the truth of an assertion, Respondent shall  
14 so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted.  
15 When Respondent intend to deny only a part or a qualification of an assertion, or to qualify an  
16 assertion, Respondent shall expressly admit so much of it as is true and shall deny the remainder.  
17 Any defense not raised in the answer is deemed waived.

18 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondent will be**  
19 **deemed in default** and the Superintendent may deem the findings in this Notice of Hearing as true  
20 and admitted and the Superintendent may take whatever action is appropriate, including (1)  
21 suspension or revocation of Respondent's license; (2) any other remedy necessary or proper for the  
22 enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S. §§ 6-  
23 123 and 6-131; and (3) imposing a civil money penalty pursuant to A.R.S. § 6-132.

24 Respondent's answer shall be mailed or delivered to the Arizona Department of Financial  
25 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or  
26 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,

1 Arizona 85007 and to Assistant Attorney General Erin Gallagher, Attorney General's Office, 1275  
2 West Washington, Phoenix, Arizona 85007.

3 **Persons with disabilities may request reasonable accommodations such as interpreters,**  
4 **alternative formats, or assistance with physical accessibility.** Requests for special  
5 accommodations must be made as early as possible to allow time to arrange the accommodations. If  
6 accommodations are required, call the Office of Administrative Hearings at (602) 542-9826.

### 7 FINDINGS

8 1. Respondent Ricky Ray Sowers DBA American Equity Financial, ("SOWERS") is an  
9 Arizona sole proprietor authorized to transact business in Arizona as a mortgage broker, license  
10 number MB 0907891, within the meaning of A.R.S. §§ 6-901, *et seq.* The nature of SOWERS'  
11 business is that of making, negotiating, or offering to make or negotiate loans secured by Arizona  
12 real property, within the meaning of A.R.S. § 6-901(6).

13 2. SOWERS, before conducting business as a mortgage broker, is required to have a  
14 surety bond, deposited with the Superintendent, pursuant to A.R.S. § 6-903(G), in the required  
15 amount pursuant to A.R.S. § 6-903(H).

16 3. On December 19, 2008, the Department received a Bond Cancellation Notice from  
17 Nova Casualty Company, stating that SOWERS' surety bond, number 69595, in the amount of fifty  
18 thousand dollars (\$50,000.00), is being terminated effective January 18, 2009.

19 4. On December 22, 2008, the Department sent a letter to SOWERS, to the address on  
20 record with the Department, via certified mail, informing them of the bond cancellation.

21 5. SOWERS failed to provide documentation regarding the reinstatement of its bond or  
22 documentation of a new surety bond.

23 6. SOWERS does not have the required surety bond in order to conduct business as a  
24 mortgage broker.

25 7. The conduct described above constitutes an immediate threat to the public health,  
26 safety, and welfare, warranting immediate suspension of Respondent's mortgage broker license

1 because Respondent is able to conduct business in Arizona as a licensed mortgage broker and they  
2 do not have the required surety bond.

3 8. The mortgage broker license of SOWERS is suspended.

4 9. The conduct described above constitutes grounds for revocation of Respondent's  
5 mortgage broker license.

### 6 LAW

7 1. Pursuant to A.R.S. Title 6, Chapter 9, the Superintendent has the authority and duty  
8 to regulate all persons engaged in the mortgage broker business and with the enforcement of  
9 statutes, rules, and regulations relating to mortgage brokers.

10 2. By the conduct set forth above in the Findings, SOWERS violated A.R.S. § 6-903(G)  
11 by failing to maintain the required surety bond.

12 3. Respondent has not conducted business in accordance with the law and violated Title  
13 6, Chapter 9 and the rules relating to this chapter, which are grounds for the suspension or  
14 revocation of Respondent's license pursuant to A.R.S. § 6-905(A)(3).

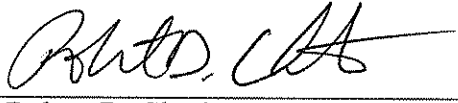
15 4. The violations, set forth above, constitute grounds for the pursuit of any other  
16 remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in  
17 Arizona pursuant to A.R.S. §§ 6-123 and 6-131.

18 5. Pursuant to A.R.S. § 6-132, Respondent's violations of the aforementioned statutes  
19 are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation  
20 for each day.

21 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the  
22 above described violations or other grounds for disciplinary action, the Superintendent may: (1)  
23 suspend or revoke SOWERS' mortgage broker license pursuant to A.R.S. § 6-905; (2) order any  
24 other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage  
25 brokers in Arizona under A.R.S. §§ 6-123 and 6-131; and (3) impose a civil penalty pursuant to  
26 A.R.S. § 6-132.

1 EFFECTIVE this 20<sup>th</sup> day of May, 2009.

2 Felecia A. Rotellini  
3 Superintendent of Financial Institutions

4 By   
5 Robert D. Charlton  
6 Assistant Superintendent of Financial Institutions

7 ORIGINAL of the foregoing filed this 20<sup>th</sup>  
8 day of May, 2009, in the office of:

9 Felecia Rotellini  
10 Superintendent of Financial Institutions  
11 Arizona Department of Financial Institutions  
12 ATTN: Susan Longo  
13 2910 N. 44th Street, Suite 310  
14 Phoenix, AZ 85018

15 COPY mailed/delivered same date to:

16 Kay Abramssohm, Administrative Law Judge  
17 Office of the Administrative Hearings  
18 1400 West Washington, Suite 101  
19 Phoenix, AZ 85007

20 Erin Gallagher, Assistant Attorney General  
21 Attorney General's Office  
22 1275 West Washington  
23 Phoenix, AZ 85007

24 Richard Fergus, Licensing Division Manager  
25 Arizona Department of Financial Institutions  
26 2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

Robert D. Charlton, Assistant Superintendent  
Arizona Department of Financial Institutions  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

...

...

...

1 AND COPY MAILED SAME DATE, by  
2 Certified Mail, Return Receipt Requested to:

3 Ricky Ray Sowers  
4 DBA American Equity Financial  
5 1441 E. Thomas Road  
6 Phoenix, AZ 85014

7 Ricky Ray Sowers  
8 DBA American Equity Financial  
9 10685 N. 113<sup>th</sup> Street  
10 Scottsdale, AZ 85259

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

*Susan Longo*